

1

BILL

2

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

3

INTRODUCED BY

4

5

6

DISCUSSION DRAFT

7

8

9

10

AN ACT

11

RELATING TO PUBLIC EMPLOYEES; CHANGING AND CLARIFYING CERTAIN

12

TERMS OF ELIGIBILITY FOR AN EDUCATIONAL RETIREE TO RETURN TO

13

WORK WITH A LOCAL ADMINISTRATIVE UNIT; PROVIDING THAT AN

14

EDUCATIONAL RETIREE WHO RETURNS TO PART-TIME WORK WITH A LOCAL

15

ADMINISTRATIVE UNIT NEED NOT SUSPEND EDUCATIONAL RETIREMENT

16

BENEFITS; REQUIRING THAT A PUBLIC EMPLOYEE RETIREE WHO RETURNS

17

TO WORK WITH A LOCAL ADMINISTRATIVE UNIT MAKE CONTRIBUTIONS TO

18

THE EDUCATIONAL RETIREMENT FUND.

19

20

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001,

22

Chapter 283, Section 2, as amended) is amended to read:

23

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS CONTINUED--

24

ADMINISTRATIVE UNIT CONTRIBUTIONS.--

25

A. Except as provided in Subsections [B] C and [F]

.204827.3SA

underscored material = new
[bracketed material] = delete

1

G of this section, beginning January 1, 2002 and continuing until January 1, 2022, a retired member may begin employment at a local administrative unit and ~~[shall not be]~~ is not required to suspend retirement benefits if:

(1) the member has not rendered service to a local administrative unit or an affiliated entity for at least twelve consecutive months after the date of retirement ~~[If the retired member returns to employment without first completing twelve consecutive months of retirement, the retired member shall remove himself or herself from retirement];~~ or

(2) the member's full-time equivalency is .33 or less.

B. If a retired member returns to employment as provided in Paragraph (1) of Subsection A of this section without first completing twelve consecutive months of retirement, the member shall remove himself or herself from retirement.

~~[B.]~~ C. A retired member who was retired on or before January 1, 2001 and has not since suspended or been required to suspend retirement benefits pursuant to the Educational Retirement Act may, at any time prior to January 1, 2022, return to employment for a local administrative unit and ~~[shall not be]~~ is not required to suspend retirement benefits.

~~[G.]~~ D. A retired member who returns to employment during retirement pursuant to Subsection A, ~~[B]~~ C or ~~[F]~~ G of

.204827.3SA

underscored material = new
[bracketed material] = delete

1

this section is entitled to continue to receive retirement benefits but is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of the retired member's reemployment with a local administrative unit.

2

3

4

5

6

7

8

9

10

11

12

13

~~[D.]~~ E. A retired member ~~[shall not be]~~ is eligible to return to employment pursuant to Subsection A, ~~[B]~~ C or ~~[F]~~ G of this section ~~[unless]~~ only if the member submits an application to return to work on a form prescribed by the board, ~~[has been submitted to, and approved by]~~ the board approves the application and the applicant has complied with ~~[such other]~~ all applicable rules ~~[as]~~ promulgated by the board.

14

15

16

17

18

19

20

21

22

23

24

25

~~[E.]~~ F. A retired member who returns to employment pursuant to Paragraph (1) of Subsection A ~~[B]~~ or ~~[F]~~ Subsection C or G of this section shall ~~[pay]~~ make nonrefundable payments to the fund in an amount equal to the member contributions that would be required pursuant to Section 22-11-21 NMSA 1978 if the retired member ~~[was]~~ were a non-retired employee ~~[and]~~. The local administrative unit employing ~~[the]~~ a retired member who returns to employment pursuant to Subsection A, C or G of this section shall pay to the fund an amount equal to the local administrative unit contributions that would be required pursuant to ~~[that section. Payments made by a retired member pursuant to this subsection shall not be refunded.]~~ Section

.204827.3SA

underscored material = new
[bracketed material] = delete

1

22-11-21 NMSA 1978 if the retired member were a non-retired employee.

2

3

[F-] G. Beginning July 1, 2003 and continuing until January 1, 2022, a retired member who retired on or before January 1, 2001, who subsequently voluntarily suspended or was required to suspend retirement benefits and who has not rendered service to a local administrative unit or an affiliated entity for at least ninety days, not including any part of a summer or other scheduled break or vacation period,

4

5

6

7

8

9

10

may begin employment at a local administrative unit without

11

suspending retirement benefits if the retired member was not

12

employed by a local administrative unit or an affiliated entity

13

for an additional twelve or more consecutive months after the

14

initial date of the retirement. [~~provided that the ninety-day~~

15

~~period shall not include any part of a summer or other~~

16

~~scheduled break or vacation period.~~

17

~~G.] H. Both the retired member who returns to~~

18

employment and the local administrative unit that employs the

19

retired member shall make contributions to the retiree health

20

care fund in the amount specified in Subsections A and B of

21

Section 10-7C-15 NMSA 1978.

22

[~~H.] I. As used in Subsections A and [F] G of this~~

23

section:

24

(1) "rendered service to a local

25

administrative unit or an affiliated entity" includes

.204827.3SA

underscored material = new
[bracketed material] = delete

1

employment by a local administrative unit or an affiliated
entity, whether full or part time; substitute teaching;
voluntarily performing duties for a local administrative unit
or an affiliated entity that would otherwise be, or in the past
have been, performed by a paid employee or independent
contractor; or performing duties for a local administrative
unit as an independent contractor or an employee of an
independent contractor; and

(2) [~~"local administrative unit" includes any~~]
"affiliated entity" means an entity incorporated, formed or
otherwise organized by, or subject to the control of, a local
administrative unit, whether or not the entity is created for
profit or nonprofit purposes."

SECTION 2. Section 22-11-25.2 NMSA 1978 (being Laws 2003,
Chapter 248, Section 1) is amended to read:

"22-11-25.2. PERSONS RECEIVING RETIREMENT BENEFITS
PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT.--

A. An employee of a local administrative unit who
is retired pursuant to the Public Employees Retirement Act and
who has not suspended retirement benefits received pursuant to
that act shall ~~[not]~~ make ~~[contributions]~~ nonrefundable
payments to the fund ~~[as otherwise required in the Educational~~
~~Retirement Act]~~ in an amount equal to the member contributions
that would be required pursuant to Section 22-11-21 NMSA 1978
if the employee were not retired.

.204827.3SA

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. An employee who continues to receive retirement benefits pursuant to the Public Employees Retirement Act and who ~~[does not make contributions]~~ makes payments to the fund as provided in Subsection A of this section is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of employment with a local administrative unit.

C. ~~[Nothing]~~ No provision in this section ~~[shall affect]~~ affects the obligation of a local administrative unit to make contributions to the fund as required in the Educational Retirement Act."

underscored material = new
[bracketed material] = delete